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SUBJECT: ARGENTINA: UPDATE ON SKANSKA CORRUPTION CASE

REF: A. 07 Buenos Aires 2121
[1](#)B. 07 Buenos Aires 1351
[1](#)C. 07 Buenos Aires 978
[1](#)D. 07 Buenos Aires 844
[1](#)E. 07 Buenos Aires 687

[1](#)1. (SBU) Summary. Judicial investigations continue into alleged bribery and tax evasion by the local affiliate of Swedish construction multinational Skanska in the expansion of Argentina's northern and southern natural gas pipelines. The courts appear to be approaching the indictment phase, despite delays generated by the resignations of the judge and prosecutor handling the bribery investigation. The Skanska case, once front-page fodder with the potential to implicate a number of senior-level GOA officials, has largely dropped off the political radar. Indictments could revive the issue. The Swedish anti-corruption office announced it will not initiate an independent investigation into the alleged irregularities in Argentina unless new evidence against Skanska's headquarters or Swedish nationals arise. End Summary.

Slow moves towards indictment

[1](#)2. (SBU) There are two judicial investigations into apparent over-invoicing, bribery and related tax evasion tied to the expansion and modernization of Argentina's natural gas pipeline network involving contractors, including the local affiliate of Swedish construction giant Skanska. The investigations should yield indictments once the courts resume work following the austral summer holidays. The criminal judge for tax-related issues, Javier Lopez-Biscayart, has reportedly collected the necessary evidence to decide on the indictments of suspects, including the former manager of Nacion-Fideicomisos (a public trust established to structure private funding of public works projects) Nestor Ulloa, accused of submitting false invoices from a shell company, Infinity Group. The local press reports that judicial cross-checks of phone records identified 77 phone calls between Ulloa and one of Skanska's managers, communications that should not have occurred between the trust fund manager and a contract bidder.

[1](#)3. (SBU) The investigation looking into possible kickbacks/bribes is not as far advanced and is more politically sensitive. The supervising judge (Guillermo Montenegro) and the lead prosecutor (Carlos Stornelli) resigned in late 2007 to accept positions in the Buenos Aires city and Buenos Aires provincial governments respectively. Before stepping down, however, Montenegro and Stornelli had already questioned several suspects, including Ulloa and Fulvio Madaro, the former President of Enargas (the GOA's natural gas regulatory authority). Montenegro set bond at seven

million pesos (US\$ 2.3 million) for both but had not rendered a decision on their indictments. Stornelli had also asked judge Montenegro to summon for questioning Secretary of Energy Daniel Cameron, Madaro's boss. Local press reported that Cameron's office instructed Madaro to move ahead with the contracts despite having been notified by him that estimates from sub-contractors were inflated.

14. (SBU) It is uncertain, given the political impact that indictments are likely to cause, whether federal judge Sergio Torres, who is temporarily handling the bribery/kickback case, will choose to move the case ahead after the judicial holidays or leave it to his successor, whenever a permanent judge is named.

Political Influence?

15. (SBU) The resignations of both the judge (Montenegro) and prosecutor (Stornelli) in the bribery/kickback investigation to accept high-profile political positions in the Buenos Aires City and Provincial governments prompted some public speculation about political interference. For conspiracy theorists looking for Kirchner handiwork in thwarting the investigation, Stornelli's appointment as Security Minister in Buenos Aires Province was fairly straightforward, given that former Kirchner Vice President Daniel Scioli is the new Governor. Montenegro, on the other hand, was appointed City Security Minister by the Kirchners' principal political opponent, Mayor Mauricio Macri. Political pundits speculate that Macri made a deal with the Kirchners to appoint Montenegro (and thus remove him from the Skanska investigation) in return for something. Employing Occom's razor, however, the more likely explanation for Montenegro's appointment lies in his close friendship with Macri's deputy, Gabriela Michetti.

Case Not a Concern in Sweden?

16. (SBU) In June 2007, the Argentine Anti-Corruption Office requested then-judge Montenegro to broaden his investigation and seek the Swedish Government's cooperation in facilitating documents from Skanska's headquarters. In parallel, Swedish Anti-Corruption prosecutor Christer Van der Kwast asked Montenegro for information about the case, which Montenegro provided in early August. Daily paper La Nacion reported on January 18 that Van der Kwast recently confirmed that the information provided was not sufficient to warrant a separate Swedish investigation, as neither Swedish nationals nor Skanska's headquarters appeared to be involved in the alleged kickback/bribery scheme. According to an August 2007 report by weekly paper Perfil, former local Skanska financial manager Jose Alonso notified Skanska headquarters in 2006 of the irregularities. Skanska's reported response was to let Alonso and other local managers go, providing them with generous severance packages. Alonso and these other managers are implicated in the parallel tax evasion investigation.

"Corruption Among Individuals"

17. (SBU) In his last media interview as Argentine President in early December 2007, Nestor Kirchner reiterated his government's position that the Skanska scandal was an issue of alleged corruption among individuals. Kirchner stated that his rapid dismissal of Madaro and Ulloa once the scandal broke in April 2007 was aimed at "preserving the State's integrity" and that the judiciary, through its investigations, will determine whether irregularities occurred. He stated, however, that he did not expect the investigation to find irregularities.

COMMENT

18. (SBU) The next step in the Skanska investigations is for the judges to issue indictments, although more government officials could be called in for questioning, something the Casa Rosada would prefer to avoid. Any immediate action following the January

judicial holidays depends on whether temporary judge Sergio Torres decides to move forward aggressively or sit on the bribery/kickback case until a permanent judge is assigned. Judicial contacts report that the process to replace Montenegro on the bench has not even started. The regular process involves testing and public vetting for qualified candidates, and the Council of Magistrates preparing a list of candidates with the best marks in rank order for the President's approval. The Council, while nominally independent, is a politicized institution, with the Administration holding sway over the majority of its members, thanks largely to controversial changes pushed through the legislature in 2006 by then-Senator Fernandez de Kirchner. Corruption-related investigations/trials in Argentina tend to drag on until public (media and opposition) attention wanes or fixates on the next scandal. This could very well be the case with Skanska.

WAYNE